CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

May 18, 2004

The Capital Projects and Bond Oversight Committee met on Tuesday, May 18, 2004, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Robert Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Leeper, Co-Chair; Representative Jodie Haydon, Co-Chair; Senators Tom Buford and Jerry Rhoads; Representatives Robert Damron, Paul Marcotte, and Jim Wayne.

Guests testifying before the committee: Ken Clevidence, Allan Vestal, Christopher Frost, and Gene Williams, University of Kentucky; John Osborne, Western Kentucky University, Bruce Bailey, Kentucky Community and Technical College System; Bill Hintze, Governor's Office for Policy and Management; Jamie Link, Finance and Administration Cabinet; Warren Nash, Economic Development Cabinet; Sandy Williams, Kentucky Infrastructure Authority; and George Burgess and Tom Howard, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Kevin Mason, Bart Hardin, and Shawn Bowen.

Representative Marcotte made a motion to approve the minutes of the April 13, 2004 meeting as submitted. The motion was seconded by Representative Wayne and passed by voice vote.

Senator Leeper called on Ms. Collins to review information items. Ms. Collins said members' folders included three information items: the Kentucky Lottery Corporation's monthly financial report for March 2003; a staff update on various capital projects; and a status report of legislation proposed in the 2004 Session relating to the jurisdiction of the Capital Projects and Bond Oversight Committee. Also included in members' folders were additional news articles concerning the rising costs of steel and other construction materials. Ms. Collins said two projects, the Eastern Kentucky University Business and Technology Building project in Richmond and the Bryan Station High School project in Lexington, have been affected by the rising cost of construction materials.

Senator Leeper asked Mr. Bill Hintze, Deputy Budget Director, Governor's Office for Policy and Management, if the legislature were to enact a budget, would the proposed projects in the budget need to be reviewed and cost estimates be increased if necessary due to rising construction costs. Mr. Hintze said increasing the scope of proposed projects might need to be done at some future date. However, if the Administration moves forward without a legislatively enacted budget, they would be limited to cash projects whose scopes were formulated last fall. Mr. Hintze said in the near term, one of the issues on the table for consideration in formulating a spending plan will include a reexamination of the adequacy of both the Capital Construction and Equipment Purchase Contingency Account, and the Emergency Repair, Maintenance and Replacement Fund.

Representative Marcotte noted that concrete prices and interest rates are also rising, and both factors may affect construction projects.

Mr. Ken Clevidence, Associate Vice President for Fiscal Affairs, University of Kentucky (UK), discussed four projects. Mr. Clevidence introduced UK College of Law Dean Allan Vestal and Associate Dean Christopher Frost, UK; and Mr. Gene Williams, UK Vice President for Fiscal Affairs and Information Systems. Mr. Clevidence first reported a project to replace the court lighting system at Memorial Coliseum. He said this project is to address a safety issue. The current lighting is old and some of the bulbs have fallen on the flooring and seating area. The project scope is $600,000 and will be funded with private funds that have been received.

Representative Wayne asked why this project was not included in the University's capital plan and how long lighting had been a problem. Mr. Clevidence said he only recently became aware of the safety issue. He said by replacing the lighting, the University will save at least 50% of the energy costs since the current lighting is not energy efficient.

Next, Mr. Clevidence reported on a project known as the Electronic Access Rural Demonstration Project (Phase I and II) for the UK College of Law. The proposed project scope is $1,987,477, and will be federally funded. Mr. Vestal said this project has two phases. Phase I of this project will create an information access hub (control facility) that will provide virtual reference services and will be able to capture, store, edit and disseminate video trial records. The College of Law will be linked to two rural courthouse locations, and the access hub will be able to control two of the college's smart classroom/distance learning venues. Phase II will add three rural courthouse sites, and origination and destination nodes in three classrooms and in offices of the College of Law Building. These facilities will include teleconferencing, distance learning, and smart classroom equipment where appropriate.

Representative Wayne noted that $400,000 of the cost will be for staffing and asked how much of the remainder of the project scope will be used for technology and how much for classroom renovation/construction. Mr. Vestal said the balance would be split half and half for equipment and renovations.

Representative Wayne asked where the three rural sites for this project are located. Mr. Vestal said they have not identified the sites yet, but they will be located in courthouses in rural areas of the state. He said they are working with the Administrative Offices of the Courts to identify likely candidates.

Next, Mr. Williams discussed the Integrated Resource Information System (IRIS) project. The project scope is $1,253,000, and will be funded with a combination of agency and private funds. Mr. Williams said this project involves renovating a building to meet training and prototype space requirements for the University's IRIS project. Mr. Williams said the project is a massive undertaking by the University to replace all of its administrative computing processes (financial, human resource, and student information systems). UK plans to renovate 3,850 SF of a 12,500 SF building recently acquired at 630 South Broadway in Lexington, and will also add a 1,500 SF mezzanine.

Representative Wayne asked why this project was not identified in the University's capital plan. Mr. Clevidence said the actual IRIS project computer system, including consulting and software costs, was in the capital plan.

In response to a question from Senator Leeper, Mr. Clevidence said the entire building will be used for the IRIS project, not just the renovated space.

The last item Mr. Clevidence reported was a lease renewal for the UK Markey Cancer Center, Information Services. The current annual cost of the lease is $99,944 for 6,558 square feet. Mr. Clevidence said the University is proposing to increase the leased space by 8,151 square feet at the current rate of $15.24 per square foot. In addition, the cost of renovating the space, $122,265, will be amortized over a five-year period. Mr. Clevidence said the funding for this lease will come from a grant from the National Cancer Institute (NCI).

Representative Wayne asked what was the status of the grant from NCI. Mr. Clevidence said the grant has been approved, but they have not received the final paper work yet.

Senator Buford made a motion to approve the four University of Kentucky projects. The motion was seconded by Representative Marcotte and passed by unanimous roll call vote. The unbudgeted projects were approved pending the approval of the Council on Postsecondary Education - the Memorial Coliseum Court Lighting project, the Electronic Access Rural Demonstration project, and the IRIS project.

Mr. Clevidence said this would be his last appearance before the Committee. He then introduced Mr. Bob Wiseman, Associate Vice President for Facilities, UK, who will serve as liaison to the Committee in the future.

Senator Leeper next introduced Mr. John Osborne, Associate Vice President Campus Services and Facilities, Western Kentucky University (WKU), to discuss the WKU Downing Center Dining Renovation project. Mr. Osborne said the University is requesting approval for an unbudgeted project to install a restaurant and food court in the Downing University Center (DUC). The cost of the project is $1.2 million. Aramark, the dining service provider WKU has under contract, will contribute $1,000,000 and WKU will add $200,000 to the project to allow for further expansion of the project.

[The $1,000,000 contribution by Aramark will be amortized over the remaining 13 years of Aramark's contract with WKU. As long as the food contract continues, WKU will not make any payment towards the Aramark investment. That investment is to be recouped from food sales.]

Mr. Osborne said they are seeking the Committee's approval since the 2004-06 budget has not been enacted. He said they need interim approval in order utilize the summer months to complete as much of the work as possible.

In response to a question from Senator Leeper, Mr. Osborne said the source of funds for the University's portion of this project ($200,000) would be surplus auxiliary reserve funds.

Senator Buford made a motion to approve the WKU project. The motion was seconded by Senator Rhoads and approved by unanimous roll call vote.

Mr. Bruce Bailey, Director of Property Management, Kentucky Community and Technical College System (KCTCS), reported a proposed land transaction between KCTCS and St. Elizabeth's Medical Center, Inc. The 2002-04 Executive Budget authorized KCTCS to transfer and exchange property at Gateway Community and Technical College for real property owned by St. Elizabeth's Medical Center in Northern Kentucky. Mr. Bailey said the budget language stipulated that the Secretary of Finance was to approve the final transaction and the value of the property to be acquired (St. Elizabeth's Medical Center) must be equal to or greater than the property owned by KCTCS. He said that according to the appraisals provided, St. Elizabeth's property ($4.375 acres) is valued at $1 million and KCTCS's Gateway Property (5 acres) is valued at $875,000. The Finance Secretary approved the transaction April 22, 2004.

Representative Wayne asked if KCTCS has performed an environmental assessment of the St. Elizabeth property. Mr. Bailey said the environmental assessment has been done and did not indicate any environmental concerns.

Senator Buford made a motion to approve the property swap between KCTCS and St. Elizabeth's Medical Center. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

Senator Leeper asked Mr. Hintze and Mr. Jamie Link, Acting Commissioner, Department for Facilities Management, to present the Finance Cabinet's monthly report to the Committee. Mr. Hintze reported an allocation of $300,000 from the Emergency Repair, Maintenance and Replacement Account to repair and resecure the roof structure of the Glasgow Armory Drill Hall.

Mr. Link said a bolt in a roof support beam at the facility failed and caused the beam to deflect and separate, putting greater stress on all the supports in the roof structure. Mr. Link said they immediately authorized the temporary shoring of the roof structure to prevent any potential collapse. Mr. Link said the emergency funds would be used to repair the damage to the roof and to replace the roofing material with lighter materials that will create less stress on the supports.

Senator Buford asked if the roof damage is covered by insurance. Mr. Link said the Department of Military Affairs indicated it is fully insured for the total cost. He said upon completion of the project, the Department of Military Affairs will seek reimbursement from the Department of Insurance, and those funds will be reimbursed back to the Emergency Fund.

Representative Damron asked how old the roof was. Mr. Link said he did not know, but he would find the answer and let him know.

In response to another question from Senator Leeper, Mr. Link said the roof is not under warranty, so there would be no contractor liability. However, he assured the Committee that he would check all avenues for any reimbursement. Senator Leeper said no further action was required for this project.

Mr. Hintze next reported an unbudgeted project for the Department for Employment Services (DES) known as the Benefit Audit Reporting Tracking System (BARTS II). Mr. Hintze said this project is part of a three-phase upgrade project to the Department's unemployment insurance system. This enhancement will enable BARTS to communicate with other existing systems, and will enhance the Department's ability to detect and deter benefit overpayments and fraud. Mr. Hintze said the project scope is $563,000 and will be 100% federally funded. He noted that the project had been included as a current year line-item project in the Governor's recommended 2004-06 Executive Budget.

Senator Buford made a motion to approve the unbudgeted project for the Education Cabinet, Department for Employment Services. The motion was seconded by Representative Damron and passed by unanimous roll call vote.

Mr. Hintze next reported that the PACE (Purchase of Agricultural Conservation Easements) Board recently made four agricultural conservation easement acquisitions at a cost of $2.4 million. Funding for these acquisitions came from the $10 million in bond funds made available to PACE from the Rural Development Bond Fund included in the 2000-02 Executive Budget. The acquisitions include: Onan Farm in Shelby County, 691.269 acres at $850 per acre, and a total cost of $587,579; Read Farm in Larue County, 701.980 acres at $700 per acre, and a total cost of $490,686; Crain Farm in Hardin County, 272.250 acres at $1,500 per acre, and a total cost $408,376; and the Case Farm in Shelby County, 772.170 acres at $1,200 per acre, and a total cost of $926,604.

In response to questions from Representative Marcotte, Mr. Hintze said there is very little money left in the PACE account for purchase of agricultural conservation easements. He said $400,000 was proposed in the Executive Budget, and there is not much money left, absent some additional appropriations. He said there is a backlog of pending applications for the PACE program.

Representative Wayne asked if money for the PACE program will be available in the future for land acquisitions. Mr. Hintze said for the next two years, the PACE program will receive a very minimal level of support. Senator Leeper said this project required no further action.

Lastly, Mr. Link reported an Energy Savings Performance Contract (ESPC) for KCTCS. The Finance Cabinet has signed an ESPC with Energy Systems Group, LLC of Indianapolis on behalf of KCTCS to install energy conservation measures at 17 facilities at campuses in Madisonville (Madisonville Community College and Madisonville Technical College) and in Jefferson County (Jefferson Community College downtown, Jefferson Community College southwest, and Jefferson Technical College).

Mr. Link said the project scope is $2,656,933. To finance the project, KCTCS entered a master lease with option to purchase agreement with Citibank for $3,032,544 ($2,256,933 principal; $775,611 interest), at 4.3% interest for a term of 13 years. In addition, KCTCS used its operating fund for the project. The project includes lighting upgrades, electrical and mechanical equipment, pumps, and air handlers, replacement of two chillers and a boiler, and water conservation measures.

Senator Buford asked if the company will do an audit to verify the energy savings for this project. Mr. Link said the company is required to perform an annual audit to verify the energy savings through the utility bills. Senator Buford suggested it might be better to have a different company perform the audit to assure no conflict with the same company holding the contract and performing the audit. Mr. Link said the KCTCS staff and the Finance Cabinet also have the ability to audit any of the records for verification.

Representative Wayne asked if the project was competitively bid. Mr. Link said the procurement code was followed, and the prevailing wage is required for the work done by the company.

Senator Leeper asked if the Finance Cabinet had certified that the energy measures will have a useful life of 13 years (the financing period). Mr. Link reported in the affirmative and said any equipment replaced would have to exceed the payback period of the contract.

Representative Damron said 13 years seemed like a long time to finance an energy efficiency project. He asked why the state is financing this kind of project over such a long period. Mr. Link said 13 years is on the outer limit of an ESPC contract. There are certain energy conservation measures that have a very quick payback, and there are others that have longer paybacks. He said there are items in this project that may have paybacks exceeding 13 years (such as boilers and chillers), but the aggregate, when you factor in lighting with a shorter payback of six to seven years, is 13 years.

Representative Damron asked how Energy Systems Group was selected to do the work. Mr. Link said KCTCS received authorization through the budget process to enter into an ESPC. KCTCS then identified its greatest energy needs and approached the Finance Cabinet and the Department for Facilities Management. Together, they developed a Request for Proposal, and procured the services of an energy saving company to conduct an industrial grade audit to determine what energy conservation measures should be undertaken.

Representative Damron expressed some concerns over energy savings performance contracts. He said he was aware of instances where ESPC companies had taken advantage of school districts. In response, Mr. Link said the procurement process was totally competitive and in accordance with KRS 45A. There is an extensive process of evaluating the references, qualifications, experience, and ability of a company to perform the energy savings project.

Senator Leeper said no further action is required for this project.

The next agenda item was the bond activity report from the Office of Financial Management. Senator Leeper asked Mr. Warren Nash, Deputy Commissioner, Department for Financial Incentives, Economic Development Cabinet, to report on three Economic Development Bond (EDB) projects. Mr. Nash first reported a grant of $200,000 to the Gallatin County Fiscal Court, to benefit Argent Metals Technology. Argent is in the process of purchasing, renovating and equipping the former American

Racing Equipment facility located in Warsaw, Kentucky. The company will use the new facility to produce alloy wheels for the North American market. Mr. Nash said the EDB funds will be used to help offset a portion of the cost associated with the project. In return for the grant, the company will be required to create 200 new full-time jobs within two years of completion of the project and maintain these jobs for three years. If they do not create or maintain these jobs, the company will be required to pay the Gallatin County Fiscal Court $1,000 for each job not created or maintained. The average hourly wage for new employees will be $17.49 plus benefits.

Representative Damron made a motion to approve the EDB grant for Argent Metals Technology. The motion was seconded by Senator Buford and passed by unanimous roll call vote.

Mr. Nash next reported a grant of $1,500,000 to Bowling Green Metalforming, LLC, a subsidiary of Magna International Inc. Magna is proposing to construct a 900,000 square foot manufacturing and assembly facility on approximately 132 acres of land within the Kentucky TriModal Transpark located in Warren County, Kentucky. Mr. Nash said in return for the grant, the company will be required to create 600 new full-time jobs by December 31, 2007 and maintain these jobs through December 31, 2010. If they do not create or maintain these jobs, the company will be required to pay the Warren County Fiscal Court $2,500 for each job not created or maintained. The average hourly wage for new employees will be $13.41 plus benefits.

Mr. Nash said a Regional Industry Authority will serve as a conduit through which the EDB funds will flow, but any repayment of EDB funds will be to the Warren County Fiscal Court.

In response to a question from Representative Wayne, Mr. Nash said Magna is the first industry to move into the new Transpark.

Representative Damron asked if Magna plans to move into the Transpark, regardless of whether or not a state budget is passed that includes a new training facility. (The Governor’s recommended 2004-2006 budget also includes a $5.5 million KCTCS technology center to be located in the new Transpark, which would be used by Magna.) Mr. Nash said it is his understanding that Magna is planning to move here. He said at the next Kentucky Economic Development Finance Authority’s (KEDFA) meeting, they probably will be approving the issuance of local industrial revenue bonds. The industrial revenue bonds for the Magna facility.

In response to a question by Representative Damron, Mr. Hintze said that as the Governor’s Spending Plan for next year is being developed, the Administration is trying to find a way to keep the $5.5 million training center alive without bonds to finance the project. He said the Administration does not purport to have any ability as an executive acting unilaterally to sell bonds absent a legislatively enacted budget, but because of the priority attached to that facility and associated jobs and their good faith commitment to the firm, they are trying to find a cash funding alternative either as an advance or by some other means to keep the project on track.

In response to further questions by Representative Damron, Mr. Hintze reiterated the Administration does not plan to issue any bonds without budget authorization.

Representative Wayne said he questioned whether the Transpark is a wise investment of dollars. He said he also had some environmental concerns about the Transpark and could not support the project.

Representative Damron made a motion to approve the EDB grant for Bowling Green Metalforming (Magna). The motion was seconded by Representative Marcotte and passed by roll call vote. Five members voted affirmatively; Representative Wayne voted "No."

Mr. Nash then reported an amendment to a previously approved EDB grant of $71,500 for the City of Franklin to benefit Harman/Becker Automotive Systems, Inc. Harman/Becker is a "high end" car audio manufacturer, which supplies audio equipment to Toyota, Mercedes, BMW, Audi and other auto manufacturers. The company has a 130,000 square foot manufacturing facility located in the City of Franklin, and the grant was to help defray a portion of the cost associated with the site preparation for the company's proposed 45,000 square foot expansion.

Mr. Nash said the original project was estimated to cost $11 million, but due to the need to purchase additional equipment, the Cabinet is revising the EDB grant request from $71,500 to $196,500. This amount will be matched by the City of Franklin with $71,500, for a total grant of $268,000. The job requirements will remain the same; within two years of grant disbursement, Harman/Becker has agreed to create 100 new full-time jobs and maintain these jobs for an additional three years. The average hourly wage for new employees will be $12.

Representative Damron made a motion to approve the amended EDB grant for Harman/Becker Automotive Systems, Inc. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

Mr. Nash then presented a follow-up report for an EDB grant agreement for the Purchase Area Regional Industrial Authority (PARIA). Mr. Nash said the Committee reviewed and approved this project at its August 2003 meeting. The project was approved as a line item project in the 2002-04 Executive Budget. He said the $5 million grant, along with other funding, will be used to plan and develop a first marketable phase of the regional industrial park.

Mr. Nash said there have been ongoing discussions between PARIA, the Economic Development Cabinet, and KEDFA relating to the conditions to be placed upon this grant. He said now that all conditions have been agreed upon, the grant agreement has been signed and executed, and the grant funds will be disbursed tomorrow to the Graves County Fiscal Court. Senator Leeper said no further action was required for the project.

Senator Leeper recognized Representative Rocky Adkins, House Majority Floor Leader, and Representative Jim Bruce.

Ms. Sandy Williams, Kentucky Infrastructure Authority (KIA), reported two new Fund A loan requests. Ms. Williams reported a Fund A loan request in the amount of $1,336,540 for the City of Hopkinsville. The proceeds will be used to install sewer extensions, a force main and a pump station. The second loan request was in the amount of $230,000 for the Southern Water and Sewer District in Floyd County. The proceeds will be used for construction of a wastewater treatment plant.

Senator Buford made a motion to approve the two KIA Fund A loans. The motion was seconded by Representative Marcotte and passed by unanimous roll call vote.

Ms. Williams said included in members' folders were reports from KIA regarding various new Tobacco and Coal Development Grants. The General Assembly authorized each of the coal and tobacco projects identified and no further action was required. In addition, there was a follow-up report on 2020 program funding for the Monroe County Water District.

The next report was provided by George Burgess, Executive Director for the Office of Financial Management (OFM), and Tom Howard, Deputy Executive Director, OFM.

Mr. Howard reported a new bond issue - Kentucky Asset/Liability Commission (ALCo) General Fund Tax and Revenue Anticipation Notes (TRANs), 2004 Series A and B. Mr. Howard said on May 11, ALCo approved a resolution authorizing the issuance of up to $800 million in TRANs to provide seasonal working capital for the General Fund during fiscal year 2005. Mr. Howard said they will issue approximately $500-$600 million in TRANs in late June, and they expect the highest ratings on this issue. The bonds will be issued as a combination of fixed rate and variable rate securities, most likely index rate notes.

Representative Damron asked if this issue is to address cash flow or will some arbitrage interest earnings be generated by the issue. Mr. Howard said they anticipate there will be some spread between the costs associated with borrowing and interest earned on note proceeds. He said presently, that spread is between 40 and 50 basis points (.40-.50%), and if rates were to rise, the basis point spread would increase also. He said if a TRAN were issued for $500 million, they anticipate there would be a $2.5 million net benefit to the General Fund.

Representative Wayne asked what will happen to the state's bond rating if a budget is not passed. Mr. Howard said lack of a state budget will not have any impact on the issuance of TRANs. He said the last time a TRAN was issued, in 2002, the conditions were similar in that there was no enacted budget in place. He said this issue is based on anticipated revenues, not appropriations.

Representative Damron asked how lack of a budget will affect other bond issues. Mr. Howard said we should know that soon. Other issues on today's agenda are appropriation-based and rating of those issues will take into effect the budget situation. He said rating agencies may place the state on credit watch or may change the outlook for Kentucky's issuer credit rating pending a resolution to the budget impasse. He said there may be something in the rating agencies' analyses expressing concern about the state's current budget situation, and the fact that we are in this situation for the second time.

Representative Marcotte asked what is currently happening in the bond market. Mr. Howard said interest rates are rising dramatically right now. He said the higher interest rates will generally create higher borrowing costs in the next biennium. Senator Leeper said TRANs are to be reported to the Committee within 30 days of issue and no further action is required.

Mr. Howard reported new bond issues for the Turnpike Authority of Kentucky. The Turnpike Authority plans to issue three series of bonds – 2004 Series A ($16.9 million), 2005 Series A ($32.7 million), and a Series to be determined ($50.3 million). These proceeds from each of these bond issues will be used to refund outstanding bonds. Issues by the Turnpike Authority of Kentucky do not require Committee action prior to issuance; however, a report is to be submitted to the Committee regarding costs of the issuance. Senator Leeper said no further action was required.

Mr. Howard presented another new bond issue report - Eastern Kentucky University (EKU) Consolidated Educational Buildings Revenue Bonds, Series V, dated May 1, 2004 ($12,665,000). This project is being issued to finance the cost and improvements to a high voltage electrical system and various maintenance pool projects including roof replacements, HVAC equipment, and various other improvements.

Mr. Howard said the anticipated rating in members' folders was incorrect. The S&P rating is listed as A-. However, S&P has rated these bonds as A and Moody's has just issued a report that would elevate the ratings from A3 to A2, citing enrollment growth, modest operating surpluses, adequate debt service coverage, and a recent tuition increase.

Representative Damron said one thing he noticed is this bond issue is structured with a $900,000 debt service reserve. He said debt service reserve accounts are typically not used much anymore because they are not cost effective. Instead, surety bonds are used. He also noted that based on legislation passed by the General Assembly and signed by the Governor, agency bonds now qualify for a state intercept provision which assures bond buyers that state funds appropriated to a postsecondary institution for any purpose may be “intercepted” to prevent a default on bonds. Representative Damron indicated this should assure these institutions will get the same rating as a state issue.

Representative Damron asked why First Kentucky Securities and EKU are not availing themselves of the intercept provision and, in addition, why they are using the debt service reserve. Mr. Howard said the intercept provision will not become effective until July 13. He also said that the issue will be based on an existing university bond indenture, which requires a debt service reserve fund. He noted that most universities continue to operate under very old indentures, constructed over forty years ago that include onerous requirements that are not particularly economically efficient in today’s market place. Mr. Howard said they believe that a reserve fund could be structured with an appropriate investment vehicle that could earn the bond yield in today’s environment. In fact, this was achieved for a University of Kentucky issue about a year ago. He said OFM has had discussions with both First Kentucky Securities, Peck, Shaffer and Williams, and the rating agencies about the new legislation relating to the intercept provision. Mr. Howard said the rating community has told them they need to provide a schematic diagram of the appropriation process, the allotment process, and how the funds would be captured under the intercept provision. He said OFM is working to put together a package that will ultimately achieve benefit to the underlying bond.

Representative Damron said he could not support this bond issue. He said this is a revenue bond, and it means the students are actually going to be paying these costs through tuition. He said with the rates of increase in tuition, he could not support this bond issue until he is assured that the state is being as efficient as possible in trying to keep those costs down. He said using a debt service reserve fund is a very inefficient way to issue bonds.

Senator Leeper asked if anyone from EKU was in attendance at the meeting and could answer questions about this bond issue. Dr. Paul Blanchard, Executive Director for EKU’s Government Relations Office, said he was not prepared to speak about this bond issue, but would pass along the Committee’s concerns to the proper person at EKU.

In response to questions from Representative Wayne, Mr. Howard said if the Committee passed over this bond issue, EKU would not be able to issue the bonds before the end of the fiscal year, June 30, 2004. The project would then effectively be put on hold until the budget is passed. He said the University is planning to begin construction soon in order to get the work done during the summer months. Mr. Howard also noted that based on market conditions, interest rates are likely to go higher, which would increase project costs.

Senator Buford made a motion to approve the bond issue for EKU. The motion was seconded by Representative Marcotte and passed by roll call vote. Five members voted affirmatively; Representative Damron voted "No."

Mr. Howard reported two bond issues for KIA. Proceeds from both bond issues will be used to finance certain obligations related to the KIA's Wastewater Revolving Fund Program and the Drinking Water Revolving Fund Program: KIA Wastewater Revolving Fund Program Revenue Bonds, 2004 Series I (Fund A), not to exceed $6.5 million; and KIA Drinking Water Revolving Fund Program Revenue Bonds, 2004 Series C (Fund F), not to exceed $5.5 million.

Senator Buford made a motion to approve the two bond issues for KIA. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

Mr. Howard reported another new bond issue: KIA Governmental Agencies Program Revenue Refunding and Improvement Bonds, 2004 Series A and B in an aggregate amount not to exceed $59 million.

Mr. Howard said this issue would refinance the existing Fund C Program in its entirety with both tax-exempt and taxable bonds. He said they are using a new bond indenture to restructure and improve the program, and to get out from under some very onerous bond indenture requirements that were drafted 30 years ago, including the state's moral obligation provision. It will require a debt service reserve for this particular credit, so as to completely stand up on its own without any state support. Mr. Howard said with the current market conditions, the state can still achieve present value savings on the tax exempt refunding portions combined with the taxable portion. In addition to the savings that are achievable from the refunding itself, the state will also release existing debt service reserve funds back to the borrowers, thereby lowering their total cost of borrowing.

Representative Wayne asked how restructuring the Fund C Program will eliminate the state's moral obligation requirement. Mr. Howard said currently under the indenture, there is a requirement that in the event that there is a non-payment, KIA will seek an appropriation from the state to make up the shortfall to make the debt service payments. Currently, Standard and Poor's bases its rating for these bonds solely on the moral obligation. The rating agency ignores the very seasoned pool of loans which have had no defaults. The current bonds are rated A-, but they would be rated a AA credit on a stand-alone basis.

Representative Wayne asked how the program accumulated $28 million in funds that will be used for the debt service reserve fund. Mr. Howard said it was state funds that have been compounding over the years since the Fund C Program was originally created. Those funds must be used to fund infrastructure projects.

Representative Damron asked how much money will be saved by restructuring this program. Mr. Howard said the restructuring will save the state approximately $600,000.

Representative Damron asked if the debt service reserve accounts for each of the individual cities and counties that have borrowed over the last 20 years will be reduced. Mr. Howard said they will eliminate the debt service reserve fund requirement for participating local governments. They are going to use the $28 million in existing state funds for a reserve fund and then use the earnings from the reserve fund to supplement the program, perhaps through interest rate subsidies. He said borrowers will get a benefit of lower debt service payments as a result of the lower interest rates associated with the overall financing, and subsequently a reduction in their total borrowing costs based upon the amount of reserves that they had originally borrowed.

Representative Damron asked if the local governments that have borrowed money from Fund C will get any reduction in the interest rate. Mr. Howard said they should get a reduction in their payment schedule that will match the new reduced rate on the bonds. Representative Damron asked Mr. Howard to check and make sure this was true, and if not, to let the Committee know.

Senator Buford made a motion to approve the KIA bond issue. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

Senator Leeper asked Mr. Howard if OFM could brief the Committee at a future meeting about the proposed changes regarding the Fund C program. Mr. Howard said OFM will report back to the Committee through an approval letter what the actual financing results were and then once the KIA board passes the programmatic changes, those will be brought back to the Committee as an information item.

Senator Leeper said also included in members' folders was a follow-up report for State Property and Buildings Commission Revenue Refunding Bonds, Project No. 83, dated April 28, 2004 ($195,910,000). He said no further action was required for follow-up reports.

Senator Leeper then asked Mr. Burgess to present the new school bond issues. Mr. Burgess said there were 16 school bond issues with School Facilities Construction Commission (SFCC) debt service participation. Anderson County, Augusta Independent (Bracken County), Bath County, Boyle County, Caverna Independent (Barren County), Fleming County, Harlan County, Henry County, Hopkins County, Madison County, Middlesboro Independent (Bell County), Morgan County, Perry County, Shelby County, Silver Grove Independent (Campbell County), and Williamstown Independent (Grant County). Mr. Burgess noted that Madison County and Shelby County have levied an additional nickel tax to fund their projects.

Senator Rhoads made a motion to approve the 16 school bond issues. The motion was seconded by Senator Buford and passed by roll call vote. Five members voted affirmatively; Representative Damron abstained from the vote, citing a potential conflict of interest.

Senator Leeper said there were four locally–funded school bond issues submitted to the Committee for review this month: Boone County, Fayette County, Pulaski County, and Todd County. He said all disclosure information has been filed, and no further action on the bond issues is required.

Senator Leeper said the Committee's next meeting will be held at the new Transportation Cabinet Office Building on June 15. The Committee will tour the new facility after the meeting.

With there being no further business, Representative Damron made a motion to adjourn the meeting. The motion was seconded and the meeting adjourned at 2:30 p.m.